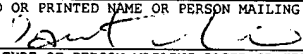


AMENDMENT TRANSMITTAL LETTER		CLIENT-MATTER NO.: 67234-038	
SERIAL NO: 09/425,633	FILING DATE: October 22, 1999	EXAMINER: B. Forman	GROUP ART UNIT: 1634 CONFIRMATION NO.: 9821
INVENTION: SEQUENCE DETERMINATION OF NUCLEIC ACIDS USING ARRAYS WITH MICROSPHERES			

TO: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, VA 22313-1450

CERTIFICATE OF MAILING BY "EXPRESS MAIL"
"EXPRESS MAIL" MAILING LABEL NUMBER: EV 400 550 998 US
DATE OF DEPOSIT: November 12, 2003
I HEREBY CERTIFY THAT THIS PAPER OR FEE IS BEING DEPOSITED WITH THE UNITED STATES POSTAL SERVICE "EXPRESS MAIL POST OFFICE TO ADDRESSEE" SERVICE 37 C.F.R. 1.10 ON THE DATE INDICATED ABOVE, AND IS ADDRESSED TO: COMMISSIONER FOR PATENTS, P.O. BOX 1450, ALEXANDRIA, VA 22313-1450.

Paul Choi
(TYPED OR PRINTED NAME OR PERSON MAILING PAPER OR FEE)

(SIGNATURE OF PERSON MAILING PAPER OR FEE)

Transmitted herewith is a Response to the Office Communication mailed October 16, 2003, in the above-identified application.

- ☒ Small Entity status of this application has been established under 37 CFR 1.27.
- ☐ Petition for Extension of Time is enclosed (in duplicate).
- ☐ Terminal Disclaimer with fee under 37 C.F.R. 1.20(d) is enclosed.
- ☒ No additional claims fee is required.
- ☐ An additional claims fee is required and has been calculated as shown below:

CLAIMS AS AMENDED

	NUMBER AFTER AMEND- MENT		HIGHEST NUMBER PREVIOUSLY PAID FOR		NUMBER OF EXTRA CLAIMS PRESENTED		RATE			FEE	
							SMALL ENTITY	OTHER ENTITY		SMALL ENTITY	OTHER ENTITY
TOTAL CLAIMS	28	-	43	-	0	x	\$9	\$18	=	\$0.0	\$
INDEPEN- DENT CLAIMS	3	-	8	-	0	x	\$42	\$84	=	\$0.00	\$
FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM											
			YES		X NO		\$140	\$280	=	\$0.00	\$
							TOTAL ADDITIONAL FEE			\$0.00	\$

* If the "HIGHEST NUMBER PREVIOUSLY PAID FOR" is less than 20, write "20" in this space.

** If the "HIGHEST NUMBER PREVIOUSLY PAID FOR" is less than 3, write "3" in this space.

*** If the difference between the "NUMBER AFTER AMENDMENT" and the "HIGHEST NUMBER PREVIOUSLY PAID FOR" is less than 0, write "0" in the space.

☐ Please charge my Deposit Account No. 502624 the amount of \$_____, \$ of which covers the fee for a _____-month extension of time. A duplicate copy of this sheet is enclosed.

☒ The Commissioner is hereby authorized to charge payment of any fees associated with this communication or credit any overpayment to Deposit Account No. 502624. A duplicate copy of this sheet is enclosed.

Inventors: Chee et al.
Serial No.: 09/425,633
Filed: October 22, 1999
Page 2

X The Commissioner is hereby authorized to charge to Deposit Account No. 502624 any fees under 37 CFR 1.17 which may be required under 37 CFR 1.136(a)(3) for an extension of time in any concurrent or future reply requiring a petition for extension of time. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Astrid R. Spain", is written over a horizontal line.

Astrid R. Spain
Registration No. 47,956

McDERMOTT, WILL & EMERY
4370 La Jolla Village Drive, Suite 700
San Diego, California 92122
858-535-9001



PATENT
Client-Matter No.: 67234-038

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of
Chee et al.

Serial No.: 09/425,633

Filed: October 22, 1999

For: SEQUENCE DETERMINATION
OF NUCLEIC ACIDS USING
ARRAYS WITH
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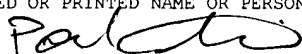
Commissioner for Patents
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) Confirmation No: 9821

) Group Art Unit: 1634

) Examiner: B. Forman

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Paul Choi
(TYPED OR PRINTED NAME OR PERSON MAILING PAPER OR FEE)

(SIGNATURE OF PERSON MAILING PAPER OR FEE)

RESPONSE TO OFFICE COMMUNICATION

Responsive to the Office Communication mailed October 16, 2003, Applicants respectfully request consideration of the following remarks.

REMARKS

Claims 23-26, 29-31, 42-44, 46, 48, and 50-53 are presently under examination.

Regarding Obviousness-Type Double Patenting

Applicants respectfully traverse the rejection of claims 29-31, 42-43, and 46-48 as unpatentable over claims 1-7 and 27-30 of U.S. Patent No. 6,355,431, under the judicially created doctrine of obviousness-type double-patenting.

Applicants respectfully submit that claims 29-31, 42-43, and 46-48 are patentably distinct from claims 1-7 and 27-30 of U.S. Patent No. 6,355,431. Base claim 42 and its dependent claims are directed to a method of determining the identification of a nucleotide at a detection position via method steps that are unobvious over base claim 1 and its dependent claims, which are directed to a method for detecting a target nucleotide sequence rather than identifying a nucleotide. Thus, the claims are directed to different, patentably distinct methods.